

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KENNETH-WAYNE LEAMING,

Plaintiff,

v.

MATTHEW SAMPSON, *et al.*,

Defendants.

Case No. 2:23-cv-333 RAJ

ORDER

**I. INTRODUCTION**

This matter comes before the Court *sua sponte*. Dkt. # 19. For the reasons that follow, the Court **DISMISSES** the complaint.

**II. BACKGROUND**

The Court previously dismissed Plaintiff's complaint alleging similar allegations. Dkt. # 18. From what the Court can ascertain, Plaintiff seeks relief that there are no exceptions under the Second Amendment. Dkt. # 19 at 10. He also purports seeks to damages against various government officials for seizing Plaintiff and prohibiting him and others from carrying arms into government buildings, including the Veterans Affairs hospitals. *Id.* Plaintiff's Complaint contains almost no factual allegations regarding Defendants.

### III. DISCUSSION

The Court's authority to grant *in forma pauperis* status derives from 28 U.S.C. § 1915. Upon permitting a plaintiff to proceed *in forma pauperis*, the Court is subject to certain requirements set forth under 28 U.S.C. § 1915(e)(2)(B). Among these requirements is the Court's duty to dismiss the plaintiff's case if the Court determines that the complaint fails to state a claim upon which relief may be granted: "the court shall dismiss the case at any time if the court determines that . . . the action . . . (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B); *see also See Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) ("[S]ection 1915(e) applies to all *in forma pauperis* complaints, not just those filed by prisoners.").

"The legal standard for dismissing a complaint for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii) parallels that used when ruling on dismissal under Federal Rule of Civil Procedure 12(b)(6)." *Day v. Florida*, No. 14-378-RSM, 2014 WL 1412302, at \*4 (W.D. Wash. Apr. 10, 2014) (citing *Lopez*, 203 F.3d at 1129). Rule 12(b)(6) permits a court to dismiss a complaint for failure to state a claim. The rule requires the court to assume the truth of the complaint's factual allegations and credit all reasonable inferences arising from those allegations. *Sanders v. Brown*, 504 F.3d 903, 910 (9th Cir. 2007). The plaintiff must point to factual allegations that "state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 568 (2007). Where a plaintiff proceeds pro se, the court must construe the plaintiff's complaint liberally. *Johnson v. Lucent Techs. Inc.*, 653 F.3d 1000, 1011 (9th Cir. 2011) (citing *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010)).

The "Second Amendment protects the right to keep and bear arms for the purpose of self-defense." *McDonald v. City of Chicago*, 561 U.S. 742, 749–50 (2010). But it is well-settled that the right is "not unlimited." *District of Columbia v. Heller*, 554 U.S. 570,

1 595 (2008). The Supreme Court clarified that its recognition of the Second Amendment  
2 right does not “cast doubt on longstanding prohibitions on the possession of firearms by  
3 felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places  
4 such as schools and government buildings, or laws imposing conditions and  
5 qualifications on the commercial sale of arms.” *Id.* at 626–27; accord *McDonald*, 561  
6 U.S. at 786. Those prohibitions are “presumptively lawful.” *Heller*, 554 U.S. at 627 n.26.  
7 Given this well-settled law, Plaintiff’s claim for relief fails. Furthermore, the Complaint  
8 lacks the who, what, where and when to state a constitutional claim for any purported  
9 civil rights violation. *Twombly*, 550 U.S. at 568.

#### 10 IV. CONCLUSION

11 For the reasons stated above, the Court **DISMISSES** the complaint with leave to  
12 amend. Dkt. # 19. The Court will provide Plaintiff with one more opportunity to state a  
13 claim for relief before dismissing the complaint with prejudice. Any amended complaint  
14 must be filed within 30 days.

15 DATED this 6th day of December, 2023.

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19 The Honorable Richard A. Jones  
20 United States District Judge  
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